

LAW OFFICES

**MILES & STOCKBRIDGE**

A PROFESSIONAL CORPORATION

10 LIGHT STREET

BALTIMORE, MARYLAND 21202-1487

TELEPHONE 410-727-6464

FAX 410-385-3700

300 ACADEMY STREET  
CAMBRIDGE, MD 21613-1865

101 BAY STREET  
EASTON, MD 21601-2718

11350 RANDOM HILLS ROAD  
FAIRFAX, VA 22030-7429

30 WEST PATRICK STREET  
FREDERICK, MD 21701-6903

22 WEST JEFFERSON STREET  
ROCKVILLE, MD 20850-4286

600 WASHINGTON AVENUE  
TOWSON, MD 21204-3965

1450 G STREET, N.W.  
WASHINGTON, D.C. 20005-2001

March 8, 1996

via FEDERAL EXPRESS

Surface Transportation Board  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423  
Attention: Mrs. Janice Fort  
Recordation

Re: Our File No. 258-1623

Dear Mrs. Fort:

Enclosed for recordation as a primary document pursuant to the provisions of 49 U.S.C. §11301(a) are one original and one notarized copy of the following document:

Loan Agreement, Chattel Mortgage and Security Agreement dated as of March 7, 1996 between First Maryland *LESSOR* Leasecorp (25 South Charles Street, Baltimore, Maryland 21201) and *lessee* Morgan Rail L.L.C. (1843 R.W. Berends Drive, S.W. Grand Rapids, Michigan 49509)

Also enclosed is a check in the amount of \$21.00 to cover the costs of recordation.

Once this document has been recorded, please return the same to: John A. Stalfort, Esquire, Miles & Stockbridge, 10 Light Street, 9th Floor, Baltimore, Maryland 21202.

Thank you for your prompt attention to this matter. Please call me at (410) 385-3425 if you have any questions.

Sincerely,

*Michele E. Sperato*  
Michele E. Sperato  
Secretary to John A. Stalfort

Enclosures

SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C. 20423-0001

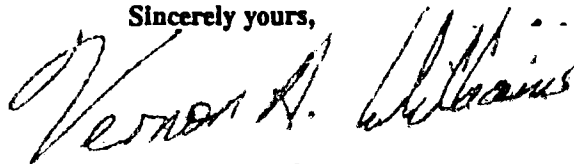
3/11/96

John A. Stalfort, Esquire  
Miles & Stockbridge  
10 Light Street, 9th Floor  
Baltimore, MD., 21202

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/11/96 at 12:05PM, and assigned recordation number(s). 19966 and 19967.

Sincerely yours,

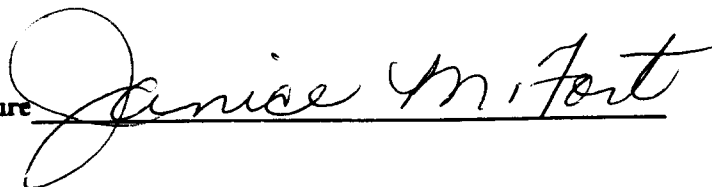


Vernon A. Williams  
Secretary

Enclosure(s)

\$ 42.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

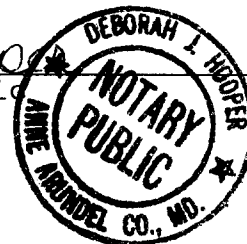


STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that the attached Loan Agreement, Chattel Mortgage and Security Agreement is a true and complete copy of said Loan Agreement, Chattel Mortgage and Security Agreement.

WITNESS my hand and seal this 8<sup>th</sup> day of March, 1996.

Deborah J. Hooper  
Notary Public



My Commission Expires: 7/27/98

19967

11:11 PM

---

---

LOAN AGREEMENT,  
CHATTEL MORTGAGE AND SECURITY AGREEMENT

Dated as of March 7, 1996

between

FIRST MARYLAND LEASECORP

and

MORGAN RAIL L.L.C.

---

---

LOAN AGREEMENT,  
CHATTEL MORTGAGE AND SECURITY AGREEMENT

INDEX

	<u>Page</u>
I. THE LOAN . . . . .	1
Section 1.1. Loan Advances . . . . .	1
Section 1.2. Prepayment . . . . .	2
Section 1.3. Loan Procedure . . . . .	2
Section 1.4. [Reserved] . . . . .	3
Section 1.5. Collateral Account . . . . .	3
Section 1.6. [Reserved] . . . . .	3
Section 1.7. Effect of Casualty to Equipment . . . . .	3
II. COLLATERAL . . . . .	4
Section 2.1. Security for Loan . . . . .	4
III. CLOSING; CONDITIONS PRECEDENT . . . . .	5
Section 3.1. Closing . . . . .	5
Section 3.2. Conditions Precedent . . . . .	6
IV. UNCONDITIONAL OBLIGATIONS . . . . .	8
V. REPRESENTATIONS AND WARRANTIES . . . . .	8
Section 5.1. Good Standing . . . . .	8
Section 5.2. Power and Authority . . . . .	8
Section 5.3. Binding Agreements . . . . .	8
Section 5.4. Litigation . . . . .	9
Section 5.5. No Conflicting Agreements . . . . .	9
Section 5.6. Financial Condition . . . . .	9
Section 5.7. Taxes . . . . .	9
Section 5.8. Compliance with Law . . . . .	9
Section 5.9. Place(s) of Business and Location of Collateral . . . . .	10
Section 5.10. Title to Properties . . . . .	10
Section 5.11. Margin Stock . . . . .	10
Section 5.12. ERISA . . . . .	11
Section 5.13. Governmental Consents . . . . .	12
Section 5.14. Full Disclosure . . . . .	12
Section 5.15. No Default . . . . .	12
Section 5.16. Recitals . . . . .	12
Section 5.17. The Lease . . . . .	12
VI. AFFIRMATIVE COVENANTS OF BORROWER . . . . .	13
Section 6.1. Financial Statements . . . . .	13
Section 6.2. Taxes and Claims . . . . .	13

	<u>Page</u>
Section 6.3. Existence . . . . .	14
Section 6.4. Compliance with Laws Generally . . . . .	14
Section 6.5. Governmental Regulation . . . . .	14
Section 6.6. Litigation . . . . .	14
Section 6.7. Insurance . . . . .	14
Section 6.8. Maintenance of Properties . . . . .	15
Section 6.9. Maintenance of the Collateral . . . . .	15
Section 6.10. Defense of Title and Further Assurances . . . . .	15
Section 6.11. Enforcement of Lease Covenants . . . . .	15
Section 6.12. Books and Records . . . . .	15
Section 6.13. Deposit of Lease and Collateral Payments . . . . .	16
Section 6.14. Business Names . . . . .	16
Section 6.15. Use and Possession of the Equipment . . . . .	16
Section 6.16. Identification Marks . . . . .	16
Section 6.17. Notice of Casualty or Default . . . . .	17
VII. NEGATIVE COVENANTS OF BORROWER . . . . .	17
Section 7.1. Mortgages and Pledges . . . . .	17
Section 7.2. Location of Collateral . . . . .	18
Section 7.3. The Lease . . . . .	18
Section 7.4. ERISA . . . . .	18
VIII. EVENTS OF DEFAULT . . . . .	19
Section 8.1. Failure to Pay the Obligations . . . . .	19
Section 8.2. Breach of Representations and Warranties . . . . .	19
Section 8.3. Failure to Perform the Obligations . . . . .	19
Section 8.4. Default Under the Leases . . . . .	19
Section 8.5. Receiver; Bankruptcy of Borrower . . . . .	19
Section 8.6. Receiver; Bankruptcy of Lessee . . . . .	20
Section 8.7. Execution; Attachment . . . . .	20
IX. RIGHTS AND REMEDIES UPON DEFAULT . . . . .	20
Section 9.1. Remedies . . . . .	20
Section 9.2. Expenses . . . . .	23
Section 9.3. Notice and Liquidation Costs . . . . .	23
Section 9.4. Waiver of Borrower . . . . .	24
Section 9.5. Effect of Sale . . . . .	24
Section 9.6. Discontinuance of Remedies . . . . .	25

	<u>Page</u>
Section 9.7. Non-Recourse . . . . .	25
Section 9.8. Consent to Jurisdiction; Service of Process . . . . .	25
X. MISCELLANEOUS . . . . .	26
Section 10.1. Notices . . . . .	26
Section 10.2. Consents and Approvals . . . . .	26
Section 10.3. Remedies, etc. Cumulative . . . . .	26
Section 10.4. No Waiver of Rights by the Bank . . . . .	26
Section 10.5. Entire Agreement . . . . .	27
Section 10.6. Survival of Agreement; Successors and Assigns . . . . .	27
Section 10.7. Expenses . . . . .	27
Section 10.8. Counterparts . . . . .	27
Section 10.9. Maryland Law Governs . . . . .	27
Section 10.10. Modifications . . . . .	27
Section 10.11. Illegality . . . . .	27
Section 10.12. Extension of Maturity . . . . .	27
Section 10.13. Gender, etc. . . . .	27
Section 10.14. Headings . . . . .	28
Section 10.15. Liability of the Bank . . . . .	28
XI. DEFINITIONS . . . . .	28
Schedule I Description of Cars	
Exhibit A Form of Promissory Notes	

LOAN AGREEMENT,  
CHATTEL MORTGAGE AND SECURITY AGREEMENT

THIS LOAN AGREEMENT, CHATTEL MORTGAGE AND SECURITY AGREEMENT (this "Agreement") is made this 7th day of March, 1996, by and between MORGAN RAIL L.L.C., a Michigan limited liability company with its principal place of business and chief executive office at 1843 R.W. Berends Drive, S.W., Grand Rapids, Michigan (the "Borrower"), and FIRST MARYLAND LEASECORP, with its principal place of business at 25 South Charles Street, Baltimore, Maryland 21201 (the "Bank").

RECITALS

A. Borrower is the owner and lessor of 138 open top hopper railcars described on Schedule I attached hereto and made a part hereof (the "Cars").

B. The Cars are leased to Sault Ste. Marie Bridge Co. (the "Lessee") pursuant to that certain Lease Agreement dated as of January 25, 1996 (the "Lease") between Rail Trusts Equipment, Inc., as lessor, and the Lessee. By its execution of the Lease, Wisconsin Central Transportation Corporation (the "Guarantor") has guaranteed the payment and performance of the Lessee's obligations under the Lease.

C. Pursuant to an Assignment of Lease dated February 28, 1996, Rail Trusts Equipment, Inc. assigned all of its right, title and interest in and to the Cars and the Lease to the Borrower.

D. As used herein, the term "Equipment" shall mean the Cars and any other equipment which is now or hereafter described on Schedule I hereto, and each item thereof, shall be referred to as an "Item of Equipment".

E. The Borrower has applied to the Bank for a loan in the principal amount of \$ \_\_\_\_\_ and the Bank is willing to accommodate the Borrower upon and subject to the terms, conditions and provisions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Borrower and the Bank do hereby agree as follows:

I. THE LOAN.

Section 1.1. Loan Advances. (a) Subject to the fulfillment of the conditions specified in Article III hereof, the Bank hereby agrees to lend to the Borrower the aggregate principal sum of up to \$ \_\_\_\_\_ in such amounts and at such times as hereinafter provided (the "Loan"). The obligation of the Borrower to repay all



sums advanced to it under the Loan shall be evidenced by the Borrower's Non-Recourse Promissory Notes in substantially the form attached hereto as Exhibit A (the "Promissory Notes"). The Promissory Notes shall bear interest and be payable in the manner and at the times set forth therein and as hereinafter provided.

Section 1.2. Prepayment. The Borrower may prepay the principal sum outstanding as provided in the Promissory Notes.

Section 1.3. Loan Procedure. It is anticipated by the Borrower and the Lender that there will be three (3) advances of the Loan. On the date hereof, assuming the Borrower is not then in default hereunder and the conditions to such advance hereinafter set forth are satisfied, the Bank will advance \$                      to the Borrower. The obligation of the Borrower to repay such advance shall be evidenced by the Borrower's Non-Recourse Promissory Note in substantially the form attached hereto as Exhibit A (the "First Promissory Note"). Upon at least five Business Days' notice, the Borrower may request the Bank to make a second advance of the Loan in an amount equal to up to the remaining principal amount of the Loan. The amount of the second advance shall be equal to the lesser of (a) \$                      times the number of remaining Cars accepted by the Lessee and subject to the Lease and (b) \$                      per quarter for the term of the Lease times the number of remaining Cars accepted by the Lessee and subject to the Lease discounted at the interest rate to be borne by the Second Promissory Note as provided in the next following sentence, but in any event not more than \$                      less the amount of the first advance. Upon receipt of such request, and assuming the Borrower is not then in default hereunder, and provided the conditions to such advance hereinafter set forth are satisfied, the Bank will advance such sum to the Borrower. Such advance shall be evidenced by the Borrower's Non-Recourse Promissory Note in substantially the form attached hereto as Exhibit A (the "Second Promissory Note"); provided, however, the interest rate borne by the Second Promissory Note shall be equal to the rate per annum equal to the yield to maturity of 6-year United States Treasury Notes as of the date of such second advance, as such yield to maturity is published in The Wall Street Journal on such date, plus 200 basis points. In addition, the default rate under the Second Promissory Note shall be % per annum in excess of the interest rate calculated as set forth in the proviso of the immediately preceding sentence.

Upon at least five Business Days' notice, the Borrower may request the Bank to make a third advance of the Loan in an amount equal to up to the remaining principal amount of the Loan. The amount of the third advance shall be equal to the lesser of (a) \$                      times the number of remaining Cars accepted by the Lessee and subject to the Lease and (b) \$                      per quarter for the term of the Lease times the number of remaining Cars accepted by the Lessee and subject to the Lease discounted at the interest rate to be borne by the Third Promissory Note as provided in the next following sentence, but in any event not more than \$                      less

the amount of the first advance and the amount of the second advance. Upon receipt of such request, and assuming the Borrower is not then in default hereunder, and provided the conditions to such advance hereinafter set forth are satisfied, the Bank will advance such sum to the Borrower. Such advance shall be evidenced by the Borrower's Non-Recourse Promissory Note in substantially the form attached hereto as Exhibit A (the "Third Promissory Note"); provided, however, the interest rate borne by the Third Promissory Note shall be equal to the rate per annum equal to the yield to maturity of 6-year United States Treasury Notes as of the date of such third advance, as such yield to maturity is published in The Wall Street Journal on such date, plus 200 basis points. In addition, the default rate under the Third Promissory Note shall be 2% per annum in excess of the interest rate calculated as set forth in the proviso of the immediately preceding sentence.

Section 1.4. [Reserved]

Section 1.5. Collateral Account. From and after the date of the first advance hereunder until the Obligations (as hereinafter defined) are paid in full, the Borrower will deposit or direct the Lessee to deposit into a bank account designated by the Bank (the "Collateral Account") all checks, drafts, cash and other remittances in payment or on account of payment of the Lease (upon the attachment of the Bank's security interest therein) and with respect to any of the Collateral (as hereinafter defined) (all of the foregoing herein collectively referred to as "items of payment"). The Borrower hereby agrees to direct the Lessee to wire transfer or pay by check to the Bank at 25 South Charles Street, Baltimore, Maryland 21201, Attn: Transportation Division, for deposit into the Collateral Account, all rentals and other sums payable to the Borrower under the terms of the Lease (all such payments, the "Collections"). In addition Borrower agrees to deposit all items of payment received by the Borrower into the Collateral Account, within two (2) Banking Days of receipt thereof, and in precisely the form received, except for the endorsement of the Borrower where necessary to permit the collection of the same. The Borrower hereby authorizes the Bank to withdraw from the Collateral Account all sums necessary to pay as and when due the principal of and/or interest on, and all other sums due under, the Promissory Note.

Section 1.6. [Reserved]

Section 1.7. Effect of Casualty to Equipment. The amounts received from time to time by the Bank which constitute settlement by the Lessee of the casualty, stipulated loss, or similar value for any Item of Equipment pursuant to the Lease, shall be applied in accordance with the terms of the Promissory Notes; provided, however, (i) any payments received after the occurrence of an Event of Default hereunder may be applied by the Bank as the Bank alone may deem appropriate, and (ii) any payments received prior to the occurrence of an Event of Default hereunder to be applied to unpaid

principal shall be (x) calculated as follows: a sum equal to the product obtained by multiplying the outstanding aggregate principal balance of the Promissory Notes by a fraction, the numerator of which is the number of Items of Equipment sustaining a casualty and the denominator of which is the number of Items of Equipment securing the Loan immediately prior to the occurrence of such event, and (y) applied pro rata to the outstanding principal under each Promissory Note.

## II. COLLATERAL.

Section 2.1. Security for Loan. As security for the payment by the Borrower to the Bank of all amounts payable hereunder, under the Promissory Notes and under the other loan documents (the "Loan Documents"), and for the performance by the Borrower of its obligations hereunder and under the other Loan Documents (all such obligations, the "Obligations"), the Borrower does hereby grant, bargain, sell, convey, assign, transfer, mortgage, hypothecate, pledge, confirm and create in favor of the Bank a first priority chattel mortgage lien on and security interest in (the "Lien") the following described property, rights and privileges (which collectively, including all property hereafter specifically subjected to the Lien by the terms hereof or by any instrument supplemental hereto, are herein called the "Collateral"):

(1) the Cars and all accessions, improvements and attachments thereto and all substitutions, renewals or replacements thereof (the "Equipment");

(2) all of the Borrower's right, title and interest as lessor in and to the Lease, including, without limitation, the right to receive all payments and other sums due thereunder, for or with respect to the Equipment (all such payments, "Rents");

(3) all of the Borrower's right, title and interest in and to the monies in the Collateral Account and all other transferable rights, powers and privileges incident thereto;

(4) all of the Borrower's right, title and interest in and to all cash and non-cash proceeds (including insurance proceeds and condemnation awards) of any of the foregoing; and

(5) all books and records relative thereto, whether or not in the Borrower's possession.

Notwithstanding the foregoing, there shall be excluded from the Lien the Borrower's right to receive all payments in the nature of personal indemnification or proceeds of liability insurance relating to the Equipment (all such payments "Excepted Payments").

The parties agree that, notwithstanding anything contained herein to the contrary, the Borrower shall continue to remain liable under the Lease and shall perform all of the obligations

assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof, and the Bank shall not be required or obligated in any manner to perform or fulfill any obligations of the Borrower under or pursuant to the Lease or, except as herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

The Borrower does hereby constitute the Bank as its true and lawful attorney irrevocably, with full power (such power coupled with an interest) in the name of the Borrower or otherwise to ask, require, demand, receive, and compound and give acquittance for any and all monies and claims for monies due and to become due under or arising out of the Lease (other than Excepted Payments) , to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Bank alone may deem necessary or advisable in the premises; provided, however, that the Bank shall not exercise such power of attorney so long as the Borrower is not in default of its obligations hereunder. In addition, to the extent the Borrower receives any rents or other sums payable under the Lease or in connection with the Collateral, the Borrower agrees to promptly remit them to the Bank for deposit into the Collateral Account.

The Borrower further agrees that the Bank shall have in respect of the Collateral all of the rights and remedies of a secured party under the Maryland Uniform Commercial Code ("UCC"). The Borrower covenants and agrees to execute and deliver such instruments, documents, financing statements and other filings necessary in the opinion of the Bank to duly perfect such security interest and mortgage lien.

Upon payment and performance of all of Borrower's Obligations, the security interest created hereby shall terminate and shall be of no further force or effect.

### III. CLOSINGS; CONDITIONS PRECEDENT.

Section 3.1. Closings. The Bank has agreed to make the Loan to the Borrower on the express condition that the Borrower secure its obligations hereunder by assigning to the Bank all of its rights, title and interests in and to the Lease and the equipment leased pursuant thereto.

The closings on the Loan shall take place at the offices of Miles & Stockbridge, counsel to the Bank, at 10 Light Street, Baltimore, Maryland 21202 or at such other place as the parties may designate, on such day or days as the parties shall specify at least two (2) Banking Days prior to such closing.

Section 3.2. Conditions Precedent.

(a) Initial Advance. The obligation of the Bank to make the initial advance of the Loan shall be subject to the Borrower's satisfaction of the following conditions precedent:

(i) Delivery to the Bank of a fully-executed copy of each of the following documents:

(A) this Agreement,

(B) the First Promissory Note,

(C) the Consent and Agreement duly executed on behalf of the Borrower, the Lessee and the Guarantor,

(D) an acceptance certificate duly executed on behalf of the Lessee, in form and substance satisfactory to the Bank, with respect to 26 Cars;

(ii) All legal matters incident to the Loan and all documents necessary in the opinion of the Bank to the making of the Loan shall be satisfactory in all material respects to the Bank and its counsel;

(iii) The Bank shall receive on the date hereof: (a) a certificate of the two (2) Members of the Borrower, in a form acceptable to the Bank in all respects, dated as of the date hereof and certifying (i) that attached thereto is a true, complete and correct copy of resolutions adopted by the members of the Borrower duly authorizing the execution, delivery and performance of this Agreement and the other Loan Documents, and the Obligations, and (ii) as to the incumbency and specimen signature of each officer of the member of the Borrower executing this Agreement and the other Loan Documents, and a certification by the two (2) Members of the Borrower as to the incumbency and signature of the Manager of the Borrower; (b) such other documents as the Bank may reasonably require the Borrower to execute, in form and substance acceptable to the Bank; and (c) such additional information and reports as the Bank may reasonably deem necessary.

(iv) On or prior to the date hereof, this Agreement and the Lease, or a memorandum thereof, shall have been duly filed with the Surface Transportation Board ("STB") and the Registrar General of Canada.

(v) The Borrower shall have good and marketable title to all of the Collateral, free and clear of all liens, encumbrances and interests of those

claiming by, through or under the Borrower (except the Lien and the Lease) and the Bank will be given a first priority chattel mortgage lien on and security interest in all such Collateral.

(vi) The Borrower shall pay to the Bank a fee in the amount of 0.5% of the amount of the initial advance of the loan.

(vii) A certificate of insurance evidencing the insurance required by Section 6.7 hereof.

(b) Second Advance. The obligation of the Bank to make the second advance of the Loan shall be subject to the satisfaction of the following conditions precedent:

(i) The Borrower shall deliver to the Bank a fully-executed copy of the Second Promissory Note.

(ii) There shall not have occurred any Event of Default hereunder or any event which with the giving of notice or lapse of time would constitute an Event of Default hereunder.

(iii) The Borrower shall deliver to the Bank an acceptance certificate duly executed on behalf of the Lessee, in form and substance satisfactory to the Bank, with respect to the Cars to be financed with such advance.

(iv) The Borrower shall pay to the Bank a fee in the amount of 0.5% of the second advance of the Loan.

(v) The second advance of the Loan shall occur on or before May 31, 1996.

(c) Third Advance. The obligation of the Bank to make the third advance of the Loan shall be subject to the satisfaction of the following conditions precedent:

(i) The Borrower shall deliver to the Bank a fully-executed copy of the Third Promissory Note.

(ii) There shall not have occurred any Event of Default hereunder or any event which with the giving of notice or lapse of time would constitute an Event of Default hereunder.

(iii) The Borrower shall deliver to the Bank an acceptance certificate duly executed on behalf of the Lessee, in form and substance satisfactory to the Bank, with respect to the Cars to be financed with such advance.

(iv) The Borrower shall pay to the Bank a fee in the amount of 0.5% of the third advance of the Loan.

(v) The third advance of the Loan shall occur on or before May 31, 1996.

#### IV. UNCONDITIONAL OBLIGATIONS.

Subject to the provisions of 9.7 hereof, the payment and performance by the Borrower of the Obligations shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against the Bank, and the Borrower shall pay absolutely net during the term of the Loan all of the Obligations, free of any deductions and without abatement, diminution or set-off; and until payment in full of all of the Obligations, the Borrower: (a) will not suspend or discontinue any payments provided for in the Promissory Note, (b) will perform and observe all of its other agreements contained in this Agreement, including (without limitation) all payments required to be made to the Bank, and (c) will not terminate or attempt to terminate this Agreement for any cause.

#### V. REPRESENTATIONS AND WARRANTIES.

To induce the Bank to make the Loan, the Borrower hereby represents and warrants to the Bank at the time of each advance of the Loan that:

Section 5.1. Good Standing. The Borrower (a) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Michigan, which is the state of the Borrower's incorporation, (b) has the full power and authority to own and hold under lease its property and to carry on its business as now being conducted, and (c) is duly qualified and licensed to do business as a foreign limited liability company in good standing in each jurisdiction in which the character of its properties or the nature of its business makes such qualification necessary.

Section 5.2. Power and Authority. The Borrower has full power and authority to execute and deliver this Agreement and each of the other Loan Documents, and the Borrower has the power and authority to make the borrowings hereunder, and to incur the Obligations, all of which have been duly authorized by all proper and necessary corporate action. No consent or approval of stockholders, any public authority or any other Person is required as a condition to the execution, validity or enforceability of this Agreement or any of the other Loan Documents.

Section 5.3. Binding Agreements. Assuming due execution and delivery by the Bank, this Agreement and each of the other Loan Documents have been duly executed by the Borrower, constitute valid

and legally binding obligations of the Borrower, enforceable against the Borrower in accordance with the terms thereof.

Section 5.4. Litigation. There are no proceedings pending or, to the knowledge of the Borrower, threatened before any court, arbitrator or administrative agency that could materially affect the financial condition or operations of the Borrower, the authority of the Borrower to enter into this Agreement or any of the other Loan Documents or its ability to perform hereunder and thereunder.

Section 5.5. No Conflicting Agreements. There is (a) no charter, by-law or preference stock provision of the Borrower and no provision of any existing mortgage, indenture, contract or agreement binding on the Borrower or affecting the Borrower's property, and (b) to the knowledge of the Borrower, no provision of law or order of court binding upon the Borrower which would conflict with or in any way prevent the execution, delivery, or performance of the terms of this Agreement or of any of the other Loan Documents or which would be violated as a result of such execution, delivery or performance.

Section 5.6. Financial Condition. The financial statements of the Members of the Borrower, copies of which have been furnished to the Bank, were prepared in accordance with generally accepted accounting principles consistently applied and are complete and correct and fairly and accurately present the financial condition of the Borrower and of its members as of their respective dates and the results of their operations for the periods then ended. There have been no material adverse changes in the financial condition of the Borrower or its members or the results of their operations since the respective dates of such financial statements.

Section 5.7. Taxes. The Borrower has filed all Federal, state and local tax returns that, to the knowledge of the Borrower, are required to be filed, and has paid all taxes as shown on such returns or on any assessment received by it, to the extent that such taxes have become due, unless and to the extent only that such taxes, assessments and governmental charges are currently being contested in good faith and by appropriate and diligent legal proceedings by the Borrower and adequate reserves therefor have been established as required under generally accepted accounting principles. To the extent the Borrower believes it advisable to do so, the Borrower has set up reserves that it believes to be adequate for the payment of additional taxes for years that have not been audited by the respective tax authorities.

Section 5.8. Compliance With Law. The Borrower is not in violation of any law, ordinance, governmental rule or regulation to which it is subject, and the Borrower has obtained any and all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its properties and the conduct of



its business, and for the performance of its obligations under the Loan Documents.

Section 5.9. Place(s) of Business and Location of Collateral. The address of the Borrower's chief executive offices is as specified in the preamble to this Agreement. Except for the "chattel paper" (as such item is defined in the UCC and interpretive case law persuasive in the courts of the State of Maryland) copy of the Lease which will be turned over to the Bank pursuant to the terms hereof, all books and records pertaining to the Collateral are and will be located at the Borrower's chief executive offices. The Borrower will promptly advise the Bank in writing of the opening of any new place or places of business or the closing of any of its existing places of business, and of any change in the location of the place or places where the books and records concerning the Collateral, or any part thereof, are kept.

The Bank may file this Agreement, the Lease, any financing statements and any other recordation documents or filings to perfect and otherwise give priority to the Lien on the Collateral as follows: a copy of this Agreement shall be, and a recordation copy of the Lease is now and shall be at all times until the Lien thereon is released by the Bank, filed with the STB and the Registrar General of Canada; Uniform Commercial Code financing statements-Form UCC-1 evidencing the granting of the Lien shall be filed with the Secretary of State of Michigan ("UCC-1s"); lease notice filings (as provided for under the UCC or under any other applicable version of such laws) evidencing the Borrower's interest as "Lessor" in the Equipment and any Collateral related thereto shall be filed with the Secretary of State of Michigan. The Bank may make other filings necessary under any other applicable law for the purposes of securing or perfecting the Lien against the Collateral or causing it to have first priority status at all times until released by the Bank. All of the filings referenced above are, and all such filings which are to be filed hereafter shall be, properly completed, duly executed and recorded in the appropriate offices or registries therefor; and the Lien constitutes a valid duly perfected first priority chattel mortgage lien on and security interest in the Collateral.

Section 5.10. Title to Properties. The Borrower has good and marketable title to the Collateral. The Collateral is free and clear of any and all mortgages, pledges, liens, charges and other encumbrances (other than the Lien and the Lease), of those claiming by, through and under the Borrower. The Borrower is not aware of any one claiming a lien or other interest in the Collateral by virtue of its dealings with the Lessee; and the Borrower has not heretofore assigned or pledged any of its right, title or interest in any of the Collateral.

Section 5.11. Margin Stock. None of the proceeds from the Loan will be used, directly or indirectly, by the Borrower for the purpose of purchasing or carrying, or for the purpose of reducing

or retiring any indebtedness that was originally incurred to purchase or carry any "margin security" within the meaning of Regulation G (12 C.F.R. Part 207), or "margin stock" within the meaning of Regulation U (12 C.F.R. Part 221), of the Board of Governors of the Federal Reserve System (herein called "margin security" and "margin stock") or for any other purpose that might make the transactions contemplated herein a "purpose credit" within the meaning of said Regulation G or Regulation U, or cause this Agreement to violate any other regulation of the Board of Governors of the Federal Reserve System or the Securities Exchange Act of 1934, as amended, or the Small Business Investment Act of 1958, as amended, or any rules or regulations promulgated under any of such statutes.

Section 5.12. ERISA. Any Plan (as hereinafter defined) established and maintained by the Borrower or any Commonly Controlled Entity (as hereinafter defined) is a qualifying plan under the applicable requirements of ERISA (as hereinafter defined), and there is no current matter which would materially adversely affect the qualified tax-exempt status of any Plan; neither the Borrower nor any Commonly Controlled Entity has engaged in or is engaging in any Prohibited Transaction (as hereinafter defined) or has incurred any Accumulated Funding Deficiency (as hereinafter defined) in connection with any such Plan, whether or not waived, and no Reportable Event (as hereinafter defined) has occurred with respect to any Plan subject to the minimum funding requirements of Section 412 of the Code (as hereinafter defined); no Multiemployer Plan (as hereinafter defined) has "terminated", as that term is defined in ERISA; neither the Borrower nor any Commonly Controlled Entity has "withdrawn" or "partially withdrawn" from any Multiemployer Plan; and no Multiemployer Plan is in "reorganization" nor has notice been received from the administrator of any Multiemployer Plan that any such Plan will be placed in "reorganization". As used in this Agreement, the term "Accumulated Funding Deficiency" means an "accumulated funding deficiency" as defined in Section 302 of ERISA or Section 412(a) of the Code; the term "Commonly Controlled Entity" means any subsidiary or any other trade or business (whether or not incorporated) which is under "common control" (as defined in the Code) and of which the Borrower or any of its subsidiaries is a part; the term "Multiemployer Plan" means a multiemployer plan (as defined in ERISA) to which the Borrower or any Commonly Controlled Entity, as appropriate, has or had an obligation to contribute; the term "Plan" means any pension, profit sharing, savings, stock bonus, or other deferred compensation plan which is subject to the requirements of ERISA, together with any related trusts; the term "Prohibited Transaction" means a "prohibited transaction" as defined in Section 406 of ERISA or Section 4975 of the Code; the term "Reportable Event" means a "reportable event" as defined by Title IV of ERISA; the term "ERISA" means the Employee Retirement Income Security Act of 1974, as amended. As used in this Agreement, the term "Code" means the Internal Revenue Code of 1986,

as amended, and the income tax regulations issued and proposed to be issued thereunder.

Section 5.13. Governmental Consents. Neither the nature of the Borrower or of its business or properties, nor any relationship between the Borrower and any other Person, nor any circumstance in connection with the making of the Loan, or the offer, issue, sale or delivery of the Promissory Notes is such as to require the consent, approval or authorization of, or filing, registration or qualification with, any governmental authority, on the part of the Borrower, as a condition to the execution and delivery of this Agreement or any of the other Loan Documents, the borrowings hereunder, the offer, issue, sale or delivery of the Promissory Notes.

Section 5.14. Full Disclosure. The financial statements referred to in this Article V do not, nor does this Agreement, nor do any written statements furnished by the Borrower or any other Person to the Bank in connection with the making of the Loan, contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein or herein not misleading. There is no fact that the Borrower has not disclosed to the Bank in writing which materially affects or, will or could prove to materially affect the properties, business, prospects, profits or condition (financial or otherwise) of the Borrower or the ability of the Borrower to perform its obligations under this Agreement.

Section 5.15. No Default. There is no Event of Default (as hereinafter defined) which has not otherwise been waived by the Bank and no event has occurred and no condition exists that with the giving of notice or the passage of time, or both, would constitute an Event of Default. The Borrower is not in default under the terms of any other agreement or instrument to which it is a party or by which it, the Collateral or any of its property may be bound or subject, with respect to any evidence of indebtedness or liability for borrowed money.

Section 5.16. Recitals. The Recitals to this Agreement are true and accurate in each and every respect and are all incorporated by reference herein.

Section 5.17. The Lease. The Lease constitutes the legal, valid and binding obligations of each of the parties thereto, is enforceable by such parties in accordance with its terms and is in full force and effect; no event of default, or event which with the giving of notice or passing of time, or both, would constitute an event of default has occurred the Lease and there are no matured but unsatisfied claims against the Borrower in favor of the Lessee which could be set off against the payments due and to become due under the Lease. The Borrower is lawfully entitled to receive payment of all monies and other sums due and to become due under the Lease, free and clear of any and all liens, encumbrances and

other adverse rights whatsoever, except for the Lien. The Lease contains no prohibition against assignment and by its terms permits the Borrower to assign its rights to all payments due thereunder to the Bank.

VI. AFFIRMATIVE COVENANTS OF BORROWER.

Until payment in full and the performance of all of the Obligations hereunder, the Borrower shall:

Section 6.1. Financial Statements. Furnish to the Bank:

(a) Annual Statements and Certificates. As soon as available but in no event more than one hundred twenty (120) days after the close of each of the Borrower's fiscal years, (i) a copy of the internally prepared financial statements of the Borrower, all in reasonable detail and satisfactory to the Bank, and certified by the Borrower's chief financial officer, which statements shall include a balance sheet as at the end of such fiscal year, profit and loss statement and a statement of cash flows.

(b) Annual Certificate of Chief Financial Officer. As soon as available but in no event more than one hundred twenty (120) days after the close of each of the Borrower's fiscal years, a certificate of the chief financial officer of the Borrower stating whether any event has occurred that constitutes an Event of Default or that would constitute an Event of Default with the giving of notice or the lapse of time, or both, and, if so, stating the facts with respect thereto.

(c) Quarterly Statements and Certificates. As soon as available but in no event more than forty-five (45) days after the close of each of the Borrower's fiscal quarters, except the last, the internally prepared balance sheet and income statements of the Borrower for the three month period then ended, certified by the chief financial officer of the Borrower, and accompanied by a certificate of that officer stating whether any event has occurred that constitutes an Event of Default or that would constitute an Event of Default with the giving of notice or the lapse of time, or both, and, if so, stating the facts with respect thereto.

(d) Additional Reports and Information. With reasonable promptness, such additional information, reports or statements as the Bank may from time to time reasonably request.

Section 6.2. Taxes and Claims. Pay and discharge all taxes, assessments and governmental charges or levies imposed upon it or any of its income or properties prior to the date on which penalties attach thereto, and all lawful claims which, if unpaid, might become a lien or charge upon any of its properties; provided, however, the Borrower shall not be required to pay any such tax, assessment, charge, levy or claim, the payment of which is being

contested in good faith and by appropriate and diligent legal proceedings.

Section 6.3. Existence. Maintain its existence in good standing in the jurisdiction in which it is formed and in each jurisdiction where it is required to register or qualify to do business, or to perform its obligations under the Loan Documents.

Section 6.4. Compliance with Laws Generally. Comply with all applicable Federal (including those of the United States and Canada), state and local laws, rules and regulations.

Section 6.5. Governmental Regulation. Promptly notify the Bank in writing in the event that the Borrower receives any notice, claim or demand from any governmental agency that alleges that the Borrower is in violation of any of the terms of, or has failed to comply with any applicable order issued pursuant to, any Federal or state statute regulating its operation and business, including, but not limited to, the Occupational Safety and Health Act and the Environmental Protection Act.

Section 6.6. Litigation. Give prompt notice in writing, with a full description to the Bank, of all litigation and of all proceedings before any court or any governmental or regulatory agency affecting the Borrower which, if adversely decided, would materially affect the conduct of the Borrower's business, the financial condition of the Borrower or in any manner affect the Collateral or the Borrower's performance of its obligations under the Loan Documents.

Section 6.7. Insurance. Cause to be carried and maintained casualty insurance in respect of the Equipment in an amount not less than the outstanding principal amount of the Loan less the amount of Casualty Value as determined pursuant to the Lease; all policies with respect to such insurance shall name the Bank as an additional insured and loss payee (for all policies insuring against loss or damage) , as its interests may appear, shall provide for at least thirty (30) days, prior written notice by the insurance carrier to the Bank in the event of cancellation, modification or expiration and shall include waivers by the insurer of all claims for premiums against the Bank and a standard mortgagee waiver in favor of the Bank. In the event that the Borrower and/or the Lessee shall fail to maintain insurance as herein provided, the Bank may (at its sole option) provide such insurance and in such event the Borrower shall be liable to the Bank for the cost thereof together with interest on the amount of such cost from the date of the Bank's payment thereof until the Bank is fully reimbursed therefor at the rate of interest provided in Section 9.2 of this Agreement; and so long as no Event of Default has occurred, any insurance proceeds received by the Bank shall be distributed in accordance with the Leases and Article I hereof.

Section 6.8. Maintenance of Properties. Upon a responsible officer, as defined in Section 6.17, having actual knowledge of the need for maintenance, keep and maintain, or cause the Lessee thereof to keep and maintain, the Equipment in good operating condition; make, or cause the Lessee thereof to make, all proper repairs, renewals, replacements, additions and improvements thereto needed to maintain such properties in good operating condition; and comply and cause each Lessee to comply with all laws, rules, regulations and orders applicable to the Collateral or any part thereof.

Section 6.9. Maintenance of the Collateral. Not permit anything to be done to the Collateral that may impair the value thereof. The Bank, or an agent designated by the Bank, shall be permitted to enter the premises of the Borrower and examine, audit and inspect the Collateral at any reasonable time and from time to time without notice. The Bank shall not have any duty to, and the Borrower hereby releases the Bank from all claims of loss or damage caused by the delay or failure to collect any payment due under or enforce any term of the Lease or to preserve any rights against any other party with an interest in the Collateral.

Section 6.10. Defense of Title and Further Assurances. At its expense defend the title to the Collateral (or any part thereof), and promptly upon request execute, acknowledge and deliver any financing statement, renewal, affidavit, deed, assignment, continuation statement, security agreement, certificate or other document the Bank may require in order to perfect, preserve, maintain, protect, continue and/or extend the Lien and its priority or to obtain the full benefits of the assignment hereunder and of the rights, powers and benefits granted in this Agreement. The Borrower shall be solely liable for and pay to the Bank on demand all taxes, costs and expenses incurred by the Bank in connection with the preparation, execution, recording and filing of any such document or instrument.

Section 6.11. Enforcement of Lease Covenants. Enforce each and every agreement and obligation to be performed by the Lessee under the Lease.

Section 6.12. Books and Records. (a) Keep and maintain accurate books and records, (b) make entries on such books and records disclosing the Bank's assignment of, and security interest in and lien on, the Collateral and all collections received by the Borrower pursuant to the Leases, (c) furnish to the Bank promptly upon request such information, reports, contracts and other data concerning the Lessees and the Collateral and all contracts and collections) relating thereto as the Bank may from time to time specify, (d) unless the Bank shall otherwise consent in writing, keep and maintain all such books and records mentioned in (a) above at its chief executive offices, and (e) permit any Person designated by the Bank to enter the premises of the Borrower and

examine, audit and inspect the books and records at any reasonable time and from time to time without notice.

Section 6.13. Deposit of Lease and Collateral Payments. Promptly upon receipt, deposit all moneys and items of payment constituting Collateral into the Collateral Account in the original form received by the Borrower (except for the endorsement of the Borrower where necessary, which endorsement the Borrower agrees to make, and the Bank, by its duly authorized officers or nominee, may also make such endorsement on the Borrower's behalf pursuant to the power of attorney granted to the Bank in Section 2.1 of this Agreement). Pending deposit thereof to the Collateral Account, the Borrower shall not commingle any such moneys or items of payment with any of its other funds or property but will hold them separate and apart therefrom in trust and for the account of the Bank until deposit into the Collateral Account or other delivery thereof is made to the Bank.

Section 6.14. Business Names. Promptly notify the Bank of any change in the name under which it or the Lessee conducts its respective business.

Section 6.15. Use and Possession of the Equipment. The Equipment will be used by the Borrower and the Lessee, upon lines of railroad owned or operated by them or upon lines of railroad over which either of them has trackage or other operating rights or over which railroad equipment of the Borrower or the Lessee is regularly operated pursuant to contract, and may be used by connecting or other carriers in the usual interchange of traffic but only upon and subject to the terms and conditions of this Agreement and the Lease; provided, however, that neither Borrower nor the Lessee or affiliate thereof shall use or permit the use of any Item of Equipment outside of the United States of America and Canada.

Section 6.16. Identification Marks. The Borrower will cause the Items of Equipment to be numbered with the respective identification numbers set forth in Schedule I hereto, and will cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked on each side of each Item of Equipment, in letters not less than one inch in height, the words "Ownership Subject to Documents Filed with the Surface Transportation Board", with appropriate changes thereof as from time to time may be required by law, or required in the opinion of the Bank, in order to protect the Lien on and the Borrower's interest in such Item of Equipment and the rights of the Borrower under the Lease and the rights of the Bank under the Loan Documents. The Borrower will not permit or suffer any Item of Equipment to be placed into operation or the exercise of any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Borrower will not suffer or permit any changes to the identification number of any Item of Equipment unless and until

Entity to incur a complete or partial withdrawal from any Multiemployer Plan to which the Borrower or any Commonly Controlled Entity has an obligation to contribute; or fail to notify the Bank that notice has been received from the administrator of any Multiemployer Plan to which the Borrower or any Commonly Controlled Entity has an obligation to contribute that any such plan will be placed in "reorganization".

#### VIII. EVENTS OF DEFAULT.

The occurrence of one or more of the following events shall be "Events of Default" under this Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

Section 8.1. Failure to Pay the Obligations. The Borrower shall fail to (a) make any payment of principal of or interest on the Promissory Notes when the same shall become due and payable or (b) otherwise pay any of the Obligations when the same shall become due and payable.

Section 8.2. Breach of Representations and Warranties. Any representation or warranty made herein or in any report, certificate, opinion (including any opinion of counsel for the Borrower), financial statement or other instrument furnished in connection with the Obligations or with the execution and delivery of any of the Loan Documents shall prove to have been false or misleading in any material respect when made.

Section 8.3. Failure to Perform the Obligations. The Borrower shall default in the due observance and performance of any covenant, condition, obligation or agreement contained in this Agreement and such default shall continue unremedied for a period of thirty (30) days after notice to the Borrower from the Bank.

Section 8.4. Default Under The Lease. An event of default shall occur under the Lease, and such event of default is not cured within the cure periods set forth in the Lease after notice thereof to the Borrower from the Bank.

Section 8.5. Receiver; Bankruptcy of Borrower. The Borrower shall (a) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its property, (b) admit in writing its inability to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent, (e) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by the Borrower for the purposes of effecting any of the foregoing, (f) by any act



(b) The Borrower shall, at the request of the Bank, promptly execute and deliver to the Bank such instruments of title or other documents as the Bank may deem necessary or advisable to enable the Bank or an agent or representative designated by the Bank, at such time or times and place or places as the Bank may specify, to obtain possession of all or any part of the Collateral. If the Borrower shall for any reason fail to execute and deliver such instruments and documents after such request by the Bank, the Bank shall be entitled in a proceeding to which the Borrower shall be a necessary party, to a judgment for specific performance of the covenants contained in the foregoing sentence, conferring upon the Bank the right to immediate possession and requiring the Borrower to execute and deliver such instruments and documents to the Bank. Subject to the rights of the Lessee, if any, under the Lease, the Bank shall have the right to take immediate possession of the Collateral, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Borrower, with or without notice, demand, process of law or legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate or lease the same until sold.

The Bank may, but shall not be obligated to, from time to time, at the expense of the Borrower, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to and of the Collateral, as it may deem proper. In each such case, the Bank shall have the right to use, operate, store, lease, control or manage the Collateral and to exercise all rights and powers of the Borrower relating to the Collateral as the Bank shall deem appropriate with respects to the use, operation, storage, leasing, control or management of the Collateral or any part thereof; and the Bank shall be entitled to collect and receive directly all tolls, rents, issues, profits, products, revenues and other income of the Collateral and every part thereof, without prejudice, however, to any other right of the Bank under any provision of this Agreement to collect and receive all cash and other moneys held by, or required to be deposited with the Bank hereunder. In accordance with the terms of this Section 9.1(b), such tolls, rents, issues, profits, products, revenues and other income shall be applied to pay the expenses of using, operating, storing, leasing, controlling or managing the Collateral and of all maintenance, insurance, repairs, replacements, alterations, additions and improvements, and to make all payments which the Bank may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon the Collateral or any part thereof (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Borrower in accordance with this Section 9.1(b)), and all other payments which the Bank may be required or authorized to make under any provision of this Agreement, including this Section 9.1(b), as well as just and

reasonable compensation for the services of all Persons properly engaged and employed by the Bank for the purposes hereof.

(c) Subject to the rights of the Lessee, if any, under the Lease, the Bank may either with or without taking possession and either before or after taking possession, and without instituting any legal proceeding whatsoever, sell and dispose of the Collateral, or any part thereof, at public auction to the highest bidder or, unless prohibited under applicable law, at private sale, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Bank alone may determine, and at any place (whether or not the location of the Collateral or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice, and the Bank or the Borrower may bid and become the purchaser at any such sale.

The Borrower hereby irrevocably constitutes the Bank the true and lawful attorney-in-fact of the Borrower (in the name of the Borrower or otherwise) for the purpose of effectuating any sale, assignment, transfer or delivery for enforcement of the Lien whether pursuant to foreclosure or power of sale or otherwise, to execute and deliver all such bills of sale, assignments and other instruments as the Bank may consider necessary or appropriate, with full power of substitution, the Borrower hereby ratifying and confining all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Bank or any purchaser, the Borrower shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Bank or such purchaser all bills of sale or other title documents, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request. The Bank agrees that the Borrower shall have the rights of a "debtor" under Section 9-505(2) of the Uniform Commercial Code and shall be entitled to receive the notice referred to therein.

(d) Subject to the rights of the Lessee, if any, under the Lease, the Bank may proceed to protect and enforce its rights under this Agreement and the other Loan Documents by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the Collateral or any part thereof, for the recovery of judgment for damages as provided in Section 9.7 the indebtedness hereby secured or for the enforcement of any other proper, legal or equitable remedy available under applicable law.

(e) Subject to the rights of the Lessee, if any, under the Lease, the Bank may proceed to exercise all rights, privileges

and remedies of the Borrower under the Lease, and may exercise all such rights and remedies either in the name of the Bank or in the name of the Borrower for the use and benefit of the Bank.

(f) Each and every right, power and remedy herein given to the Bank specifically or otherwise in this Agreement shall be cumulative and shall be in addition to every, other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often in such order as may be deemed expedient by the Bank and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No delay or omission by the Bank in the exercise of any right, remedy or power or in the pursuance of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Borrower or the Lessee or to be in acquiescence therein.

Section 9.2. Expenses. If the Borrower shall fail to pay the Obligations or otherwise fail to perform, observe or comply with any of the conditions, covenants, terms, stipulations or agreements contained in this Agreement or any of the other Loan Documents, the Bank without notice to or demand upon the Borrower and without waiving or releasing any of the obligations or any Event of Default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Borrower (the "Expense Payments"), and may enter upon the premises of the Borrower for that purpose and take all such action thereon as the Bank may consider necessary or appropriate for such purpose. All sums so paid or advanced by the Bank and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith together with interest thereon at the rate of 2% per annum in excess of the then highest current interest rate payable on the Promissory Notes from the date of payment until paid in full, shall be paid by the Borrower to the Bank on demand and shall constitute and become a part of the Obligations.

Section 9.3. Notice and Liquidation Costs. Any written notice of the sale, disposition or other intended action by the Bank with respect to the Collateral that is sent by regular mail, postage prepaid, to the Borrower at the address set forth in Part X hereof, or such other address of the Borrower that may from time to time be shown on the Bank's records, at least ten (10) days prior to such sale, disposition or other action, shall constitute reasonable notice to the Borrower. The Borrower shall be liable for all costs and expenses, including, without limitation, attorney's fees and expenses, incurred by or on behalf of the Bank in preparing for sale or other disposition, selling, managing, collecting or otherwise disposing of, the Collateral. All of such

costs and expenses (the "Liquidation Costs") together with interest thereon from the date incurred until paid in full at a per annum rate of interest that is equal to the highest current rate of interest payable on the Promissory Notes plus 2% per annum, shall be paid by the Borrower to the Bank on demand and shall constitute and become a part of the Obligations. Any proceeds of sale or other disposition of the Collateral will be applied by the Bank to the payment of the Liquidation Costs and Expense Payments, and any balance of such proceeds will be applied by the Bank to the payment of the balance of the Obligations in such order and manner of application as the Bank may from time to time in its sole discretion determine. After such application of the proceeds, any balance shall be paid to the Borrower or to any other Person entitled thereto.

Section 9.4. Waiver of Borrower. To the extent now or at any time hereafter enforceable under applicable law, the Borrower covenants that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any benefit or advantage of, any stay or extension of law now or at any time hereafter in force, nor claim, take nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Collateral or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the property so sold or any part thereof, and hereby expressly waives for itself and on behalf of each and every Person, except decree or judgment creditors of the Borrower acquiring any interest in or title to the Collateral or any part thereof subsequent to the date of this Agreement, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to the Bank but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted. Notwithstanding the foregoing, nothing contained herein shall be deemed to constitute a waiver by the Borrower of its right to insist upon the Bank's disposition of the Collateral in a commercially reasonable matter following the occurrence of any Event of Default hereunder.

Section 9.5. Effect of Sale. Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Borrower in and to the property sold, shall be a perpetual bar, both at law and in equity, against the Borrower, its successors and assigns, and against any and all Persons claiming the property sold or any part thereof under, by or through the Borrower, its successors or assigns (subject, however, to the then existing rights, if any, of the Lessees under the Leases).

Section 9.6. Discontinuance of Remedies. In case the Bank shall have proceeded to enforce any right under the Loan Documents by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Borrower and the Bank shall be restored to their former position and rights hereunder with respect to the Collateral.

Section 9.7. Non-Recourse. Notwithstanding any other provision herein but subject to the second sentence of this Section, all obligations of the Borrower hereunder, including, without limitation, the obligation to pay any monies when due (such as all principal, prepayment premiums, if any, and interest under the Note, insurance premiums, Liquidation Costs, Expense Payments, attorney fees and court costs, "out of pocket costs" such as costs for preparing for sale or other disposition, or selling, managing, collecting or otherwise disposing of the Collateral, and for paying any lien, encumbrance, tax, assessment or judgment), shall be expressly nonrecourse to the Borrower and its Members and all such payments shall be made only from the income and proceeds from the Collateral and only to the extent that the Borrower shall have sufficient income and proceeds from the Collateral to make such payments. The foregoing limitation of recourse shall not limit, restrict or impair the rights of the Bank to accelerate the maturity of the Note upon a default thereunder, to bring suit for or obtain a non-monetary order (e.g., specific performance) against the Borrower or to exercise all rights and remedies provided hereunder, or otherwise realize upon the Collateral; and, further, shall not be deemed to bar or prohibit the Bank from asserting a claim against, exercising remedies with respect to, or proceeding against the Borrower for any damages suffered by the Bank solely arising from any material representation or material warranty contained herein or in any of the other Loan Documents proving to be untrue when made or to have been breached, or the Borrower's failure to comply with the provisions of Sections 1.5, 1.7, 6.7, 7.1 or 7.3 hereof.

Section 9.8. Consent to Jurisdiction; Service of Process. The Borrower hereby agrees and consents that any action or proceeding arising out of or brought to enforce the provisions of this Agreement and/or any of the other Loan Documents may be brought in any appropriate court in the State of Maryland or in any other court having jurisdiction over the subject matter, all at the sole election of the Bank, and by the execution of this Agreement the Borrower irrevocably consents to the jurisdiction of each such court. The Borrower hereby irrevocably appoints Roger A. Duros, 1843 R.W. Berends Drive, S.W., Grand Rapids, Michigan 49509, as its agent to accept service of process for it and on its behalf in any proceeding brought pursuant to the provisions of this subsection.

X. MISCELLANEOUS.

Section 10.1. Notices. All notices, certificates or other communications hereunder shall be deemed given when delivered by hand or courier, or when mailed by certified mail, postage prepaid, return-receipt requested, addressed as follows:

if to the Bank: FIRST MARYLAND LEASECORP  
25 South Charles Street, 15th Floor  
Baltimore, Maryland 21203  
Attention: Transportation Division

if to the  
Borrower: MORGAN RAIL L.L.C.  
1843 R.W. Berends Drive, S.W.  
Grand Rapids, Michigan 49509  
Attention: Roger A. Duros

Section 10.2. Consents and Approvals. If any consent, approval, or authorization of any state, municipal or other governmental department, agency or authority or of any Person having any interest therein, should be necessary to effectuate any sale or other disposition of the Collateral, the Borrower agrees to execute all such applications and other instruments, and to take all other action, as may be required in connection with securing any such consent, approval or authorization.

Section 10.3. Remedies. etc. Cumulative. Each right, power and remedy of the Bank as provided for in this Agreement or in any of the other Loan Documents or in the Leases or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or in any of the other Loan Documents or in the Lease or now or hereafter existing at law or in equity, by statute or otherwise, and the exercise or beginning of the exercise by the Bank of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by the Bank of any or all such other rights, powers or remedies. In order to entitle the Bank to exercise any remedy reserved to it herein, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement.

Section 10.4. No Waiver of Rights by the Bank. No failure or delay by the Bank to insist upon the strict performance of any term, condition, covenant or agreement of this Agreement or of any of the other Loan Documents, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, covenant or agreement or of any such breach or preclude the Bank from exercising any such right, power or remedy at any later time or times. By accepting payment of any amount payable under this Agreement or under any of the other Loan Documents after the same is due and payable (and any applicable grace period with respect thereto has expired), the Bank shall not

Section 10.14. Headings. The headings in this Agreement are for convenience only and shall not limit or otherwise affect any of the terms hereof.

Section 10.15. Liability of the Bank. The Borrower hereby agrees that the Bank shall not be chargeable for any negligence, mistake, act or omission of any accountant, examiner, agency or attorney employed by the Bank (except for the willful misconduct of any Person employed by the Bank) in making examinations, investigations or collections, or otherwise in perfecting, maintaining, protecting or realizing upon any lien or security interest or any other interest in the Collateral or other security for the Obligations.

#### XI. DEFINITIONS.

For the purposes hereof:

(a) Each accounting term not defined herein shall have the meaning given to it under generally accepted accounting principles as applied to the Borrower on a consistent basis by the Borrower's accountants in the preparation of its previous annual financial statements.

(b) "Banking Day" shall mean any day that is not a Saturday, Sunday or bank holiday in the State of Maryland.

(c) "Person" shall include natural persons, corporations (which shall be deemed to include business trusts), associations, companies, partnerships and joint ventures.

(d) "Loan Documents" shall be the Loan Agreement, Chattel Mortgage and Security Agreement, the Promissory Notes and all other documents executed by the Borrower or any other person at any time in connection with the Loan.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

SCHEDULE I

137 open top hopper 1965-built railcars bearing the following marks and numbers: SSAM 234200 through 234336, inclusive.



FORM OF NON-RECOURSE PROMISSORY NOTE

\$ \_\_\_\_\_

Baltimore, Maryland  
March 7, 1996

FOR VALUE RECEIVED, MORGAN RAIL L.L.C., a Michigan limited liability company (the "Borrower"), hereby promises to pay to the order of FIRST MARYLAND LEASECORP, a national banking association (the "Bank"), at its offices at 25 South Charles Street, Baltimore, Maryland 21201 or at such other place as the Bank may from time to time designate, the principal sum of \_\_\_\_\_ and 00/100 DOLLARS (\$ \_\_\_\_\_), together with interest thereon at the rate of \_\_\_\_\_% per annum, from the date hereof until paid in full, as provided below.

Principal and interest shall be payable as follows:

(a) Commencing on September 1, 1996 and on the first day of each quarter thereafter, the principal sum plus interest thereon shall be paid in 24 installments of principal and interest in the amount of \$ \_\_\_\_\_ each.

(b) On June 1, 1996, interest only of \$ \_\_\_\_\_ on the principal sum from the date hereof to May 31, 1996.

(c) Unless sooner paid, the entire unpaid principal sum plus all accrued and unpaid interest thereon shall be due and payable on June 1, 2002.

(d) Interest shall be computed on the basis of a 360-day year for the actual number of days elapsed.

(e) Upon default in any payment, the unpaid principal balance shall bear interest thereafter at a rate which is at all times equal to \_\_\_\_\_% per annum, until paid in full.

All capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Loan Agreement, Chattel Mortgage and Security Agreement dated as of March 7, 1996 (the "Credit Agreement") between the Bank and the Borrower.

All payments of principal and interest shall be payable in lawful money of the United States of America, which shall be legal tender in payment of all debts and dues, public and private, at the time of payment.

This Note may be prepaid in whole at any time or in part from time to time, provided, that (a) any such prepayment is accompanied by interest accrued and unpaid on the amount so prepaid to the date

of such prepayment, (b) the Borrower gives the Bank five (5) days prior written notice of such prepayment, and (c) the Borrower shall pay to the Bank a prepayment fee (the "Prepayment Fee"). The Prepayment Fee shall be calculated in accordance with the following formula:

$$L = \frac{(R-T) \times P \times D}{360}$$

L = amount payable to the Bank as a prepayment fee  
R = interest rate payable under this Note  
T = effective interest rate at which United States Treasury instruments maturing on the maturity date of this Note and in the same amount hereof can be purchased by the Bank on the day of such prepayment  
P = amount of principal prepaid  
D = number of days remaining until the maturity of this Note as of the date of such prepayment

; provided, however, no Prepayment Fee shall be due and owing if the Borrower sells the Cars to the Bank.

The Prepayment Fee shall be due and payable in connection with all prepayments of principal, from whatever sources including, but not limited to, payments made at the voluntary election of the Borrower or any guarantor, payments made as a result of the acceleration of this Note by the Bank, or payments made as a result of casualty to or the condemnation or the sale, transfer or other disposition of any collateral securing this Note.

Until the occurrence of an Event of Default, any amounts received from time to time by the Bank which constitute payment for a casualty occurrence to any Item of Equipment shall be applied by the Bank as follows:

(i) first, to pay all accrued but unpaid interest then due and payable hereunder;

(ii) second, to pay, with premium, the unpaid principal sum hereunder as provided in Section 1.7 of the Credit Agreement; and

(iii) third, the balance, if any, to the Borrower or whosoever may be entitled thereto.

Except as otherwise provided above, all payments received hereunder shall be applied first to the payment of interest, next to any prepayment fee, and the balance, if any, to the payment of principal, unless otherwise agreed to by the Bank.

This Note is the First [Second] [Third] Promissory Note referred to in the Credit Agreement and is secured as provided for in the Credit Agreement.

Upon the occurrence of an Event of Default, then this Note shall be in default and the principal balance then due hereunder, together with all accrued but unpaid interest, shall become immediately due and payable without further notice, such further notice being expressly waived, and the Borrower shall be liable to the holder hereof for reasonable attorney's fees and costs of suit.

In addition, if this Note is referred to an attorney for collection following the occurrence of an Event of Default but prior to the filing of suit, the Borrower shall pay to the Bank the costs of collection thereof, including a reasonable attorney's fee.

This Note, having been executed and delivered in the State of Maryland, is to be governed by, construed under and enforced in all respects according to, the laws of the State of Maryland.

The rights and remedies of the holder of this Note, as provided herein, shall be cumulative and concurrent and may be pursued singularly, successively or together at the sole discretion of the holder, and may be exercised as often as occasion therefor shall occur, and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release of the same.

In the event that any one or more of the provisions (or any part of any provision) of this Note shall for any reason be held to be invalid, illegal or unenforceable in any respect, or in the event that any one or more of the provisions of this Note operates or would prospectively operate to invalidate this Note, then and in either of those events, such provision or provisions only shall be deemed null and void and shall not affect any other provisions (or remaining part of the affected provision) of this Note and the remaining provisions (or remaining part of the affected provision) of this Note shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.

The Borrower hereby waives presentment, protest and demand, notice of protest, notice of demand and of dishonor and non-payment of this Note, and expressly agrees that this Note or any payment hereunder may be extended from time to time without in any way affecting the liability of the Borrower.

Notwithstanding any other provision herein but subject to the second sentence of this paragraph, all obligations of the Borrower hereunder, including, without limitation, the obligation to pay any monies when due (such as all principal, prepayment premiums, if any, and interest under the Note, insurance premiums, Liquidation Costs, Expense Payments, attorney fees and court costs, "out of pocket costs" such as costs for preparing for sale or other disposition, or selling, managing, collecting or otherwise disposing of the Collateral, and for paying any lien, encumbrance, tax, assessment or judgment), shall be expressly nonrecourse to the Borrower and its Members and all such payments shall be made only from the income and proceeds from the Collateral (as defined in the

Credit Agreement) and only to the extent that the Borrower shall have sufficient income and proceeds from the Collateral to make such payments. The foregoing limitation of recourse shall not limit, restrict or impair the rights of the Bank to accelerate the maturity of this Note upon a default hereunder, to bring suit for or obtain a non-monetary order (e.g., specific performance) against the Borrower or to exercise all rights and remedies provided hereunder, or otherwise realize upon the Collateral; and, further, shall not be deemed to bar or prohibit the Bank from asserting a claim against, exercising remedies with respect to, or proceeding against the Borrower personally for any damages suffered by the Bank solely arising from any material representation or material warranty contained herein or in any of the other Loan Documents proving to be untrue when made or to have been breached, or the Borrower's failure to comply with the provisions of Sections 1.5, 1.7, 6.7, 7.1 or 7.3 of the Credit Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed, under seal, as of the day and year first above written.

WITNESS:

MORGAN RAIL L.L.C.

By: KND Rail Services, Inc.,  
Manager

By: \_\_\_\_\_ (SEAL)  
Roger A. Duros,  
President

STATE OF \_\_\_\_\_, CITY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_ day of March, 1996, before me personally appeared Roger A. Duros, to me personally known, who being by me duly sworn, says that he is the President of KND Rail Services, Inc., a member and the Manager of Morgan Rail L.L.C., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and that he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

AS WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

(SEAL)

My Commission Expires:

FORM OF NON-RECOURSE PROMISSORY NOTE

\$ \_\_\_\_\_

Baltimore, Maryland  
March 7, 1996

FOR VALUE RECEIVED, MORGAN RAIL L.L.C., a Michigan limited liability company (the "Borrower"), hereby promises to pay to the order of FIRST MARYLAND LEASECORP, a national banking association (the "Bank"), at its offices at 25 South Charles Street, Baltimore, Maryland 21201 or at such other place as the Bank may from time to time designate, the principal sum of \_\_\_\_\_ and 00/100 DOLLARS (\$ \_\_\_\_\_), together with interest thereon at the rate of \_\_\_\_\_% per annum, from the date hereof until paid in full, as provided below.

Principal and interest shall be payable as follows:

(a) Commencing on September 1, 1996 and on the first day of each quarter thereafter, the principal sum plus interest thereon shall be paid in 24 installments of principal and interest in the amount of \$ \_\_\_\_\_ each.

(b) On June 1, 1996, interest only of \$ \_\_\_\_\_ on the principal sum from the date hereof to May 31, 1996.

(c) Unless sooner paid, the entire unpaid principal sum plus all accrued and unpaid interest thereon shall be due and payable on June 1, 2002.

(d) Interest shall be computed on the basis of a 360-day year for the actual number of days elapsed.

(e) Upon default in any payment, the unpaid principal balance shall bear interest thereafter at a rate which is at all times equal to \_\_\_\_\_% per annum, until paid in full.

All capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Loan Agreement, Chattel Mortgage and Security Agreement dated as of March 7, 1996 (the "Credit Agreement") between the Bank and the Borrower.

All payments of principal and interest shall be payable in lawful money of the United States of America, which shall be legal tender in payment of all debts and dues, public and private, at the time of payment.

This Note may be prepaid in whole at any time or in part from time to time, provided, that (a) any such prepayment is accompanied by interest accrued and unpaid on the amount so prepaid to the date

of such prepayment, (b) the Borrower gives the Bank five (5) days prior written notice of such prepayment, and (c) the Borrower shall pay to the Bank a prepayment fee (the "Prepayment Fee"). The Prepayment Fee shall be calculated in accordance with the following formula:

$$\frac{L = (R-T) \times P \times D}{360}$$

L = amount payable to the Bank as a prepayment fee  
R = interest rate payable under this Note  
T = effective interest rate at which United States Treasury instruments maturing on the maturity date of this Note and in the same amount hereof can be purchased by the Bank on the day of such prepayment  
P = amount of principal prepaid  
D = number of days remaining until the maturity of this Note as of the date of such prepayment

; provided, however, no Prepayment Fee shall be due and owing if the Borrower sells the Cars to the Bank.

The Prepayment Fee shall be due and payable in connection with all prepayments of principal, from whatever sources including, but not limited to, payments made at the voluntary election of the Borrower or any guarantor, payments made as a result of the acceleration of this Note by the Bank, or payments made as a result of casualty to or the condemnation or the sale, transfer or other disposition of any collateral securing this Note.

Until the occurrence of an Event of Default, any amounts received from time to time by the Bank which constitute payment for a casualty occurrence to any Item of Equipment shall be applied by the Bank as follows:

(i) first, to pay all accrued but unpaid interest then due and payable hereunder;

(ii) second, to pay, with premium, the unpaid principal sum hereunder as provided in Section 1.7 of the Credit Agreement; and

(iii) third, the balance, if any, to the Borrower or whosoever may be entitled thereto.

Except as otherwise provided above, all payments received hereunder shall be applied first to the payment of interest, next to any prepayment fee, and the balance, if any, to the payment of principal, unless otherwise agreed to by the Bank.

This Note is the First [Second] [Third] Promissory Note referred to in the Credit Agreement and is secured as provided for in the Credit Agreement.

Upon the occurrence of an Event of Default, then this Note shall be in default and the principal balance then due hereunder, together with all accrued but unpaid interest, shall become immediately due and payable without further notice, such further notice being expressly waived, and the Borrower shall be liable to the holder hereof for reasonable attorney's fees and costs of suit.

In addition, if this Note is referred to an attorney for collection following the occurrence of an Event of Default but prior to the filing of suit, the Borrower shall pay to the Bank the costs of collection thereof, including a reasonable attorney's fee.

This Note, having been executed and delivered in the State of Maryland, is to be governed by, construed under and enforced in all respects according to, the laws of the State of Maryland.

The rights and remedies of the holder of this Note, as provided herein, shall be cumulative and concurrent and may be pursued singularly, successively or together at the sole discretion of the holder, and may be exercised as often as occasion therefor shall occur, and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release of the same.

In the event that any one or more of the provisions (or any part of any provision) of this Note shall for any reason be held to be invalid, illegal or unenforceable in any respect, or in the event that any one or more of the provisions of this Note operates or would prospectively operate to invalidate this Note, then and in either of those events, such provision or provisions only shall be deemed null and void and shall not affect any other provisions (or remaining part of the affected provision) of this Note and the remaining provisions (or remaining part of the affected provision) of this Note shall remain operative and in full force and effect and shall in no way be affected, prejudiced or disturbed thereby.

The Borrower hereby waives presentment, protest and demand, notice of protest, notice of demand and of dishonor and non-payment of this Note, and expressly agrees that this Note or any payment hereunder may be extended from time to time without in any way affecting the liability of the Borrower.

Notwithstanding any other provision herein but subject to the second sentence of this paragraph, all obligations of the Borrower hereunder, including, without limitation, the obligation to pay any monies when due (such as all principal, prepayment premiums, if any, and interest under the Note, insurance premiums, Liquidation Costs, Expense Payments, attorney fees and court costs, "out of pocket costs" such as costs for preparing for sale or other disposition, or selling, managing, collecting or otherwise disposing of the Collateral, and for paying any lien, encumbrance, tax, assessment or judgment), shall be expressly nonrecourse to the Borrower and its Members and all such payments shall be made only from the income and proceeds from the Collateral (as defined in the



Credit Agreement) and only to the extent that the Borrower shall have sufficient income and proceeds from the Collateral to make such payments. The foregoing limitation of recourse shall not limit, restrict or impair the rights of the Bank to accelerate the maturity of this Note upon a default hereunder, to bring suit for or obtain a non-monetary order (e.g., specific performance) against the Borrower or to exercise all rights and remedies provided hereunder, or otherwise realize upon the Collateral; and, further, shall not be deemed to bar or prohibit the Bank from asserting a claim against, exercising remedies with respect to, or proceeding against the Borrower personally for any damages suffered by the Bank solely arising from any material representation or material warranty contained herein or in any of the other Loan Documents proving to be untrue when made or to have been breached, or the Borrower's failure to comply with the provisions of Sections 1.5, 1.7, 6.7, 7.1 or 7.3 of the Credit Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed, under seal, as of the day and year first above written.

WITNESS:

MORGAN RAIL L.L.C.

By: KND Rail Services, Inc.,  
Manager

By: \_\_\_\_\_ (SEAL)  
Roger A. Duros,  
President

STATE OF \_\_\_\_\_, CITY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_ day of March, 1996, before me personally appeared Roger A. Duros, to me personally known, who being by me duly sworn, says that he is the President of KND Rail Services, Inc., a member and the Manager of Morgan Rail L.L.C., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and that he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

AS WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

(SEAL)

My Commission Expires: